

**THE BILL BLACKWOOD
LAW ENFORCEMENT MANAGEMENT INSTITUTE OF TEXAS**

**CAN MANDATORY PHYSICAL FITNESS BE
REQUIRED IN SMALLER POLICE AGENCIES**

**A Policy Research Project Submitted in Partial
Fulfillment of the Requirements for the Professional
Designation Graduate, Management Institute**

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JANUARY, 1997**

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Abstract

One would think that today's law enforcement agency would consider the health and well-being of its employees, but, some let them go by the waste side. It appears the new police officer gets all the attention and after he is on the department for awhile, he has less requirements to follow. Police officers have a very stressful job to handle and they seem to relax their physical features after certain periods of time. In most cases, police officers will shorten their life span because of their poor physical conditioning while on the job. There has been a growing concern that some police training fall short of conditioning the officer for his role as a police officer. There is not enough pressure placed on the police officer to educate and train him for a stressful life.

The purpose of this paper is to take a look at the legal justification for a physical fitness program and to see if smaller police departments can make it mandatory for officers to stay physically fit for the job. A review of the history and development of physical fitness programs, the liability issues a department may face in implementing a physical fitness program, and the education of the officers to stay physically fit will be presented. Adequate training and legal concerns are the basis for a competent program to work. The physical fitness program must be able to evaluate, conform, and maintain adequate records on the officers participating, in order for them to stay healthy. A competency based physical fitness program which is justifiable, and based on the officers background, and is not discriminatory in any way, will bring great benefits to the department and the officers themselves.

The conclusion of this research will indicate that a well evaluated program, specifically designed around the needs of the officers and the department, will provide unlimited benefits that may save costs over the years for each involved. The legal structure is there to provide a backbone to helping the officers to stay physically fit because of the stress of their job. Good research, evaluations, and well structured programs, will protect the health of the officer as well as protecting the integrity of the agency he is employed by.

Introduction

When thinking of Physical Fitness for Police Officers, two (2) important key words come to mind, Civil Liability and Training. Modern police departments should begin to take a look at the cost factors and resources available and training time needed for development of healthy police officers. Traditionally, police departments have spent various amounts of money, time, and education, in preparing officers for the stressful life as a policeman. Yet, even today, many police departments fall short in providing physical fitness policies that help regulate the physical growth of police officers.

Are police officers failing to participate in fitness programs, or, are the police departments not requiring the officers to stay healthy? These questions should be on the minds of each and every police department chief and supervisor. Police officers are trained in the academy to stay fit and trim and yet when they begin to work the street they forget about keeping themselves in shape. Police Officers maintain their weapons, vehicles, bullet proof vests, radios, and other equipment needed for their job, yet they often lack the knowledge and drive to maintain their physical condition. Even our own licensing agency, Texas Commission on Law Enforcement Officers Standards and Education, (TECLOSE) requires all police officers to maintain proficiency in current laws and requirements of their jobs, by obtaining at least forty (40) hours every two years, on all subjects, except physical fitness. TECLOSE will not provide requirements for mandatory physical fitness programs because of the legal and liability issues surrounding such programs. The purpose of this report is to decide if physical fitness is really needed for police officers and if small agencies can require all officers to submit to a physical fitness program as part of their job requirements.

Many police agencies around the United States are beginning to feel the importance of some kind of a physical fitness program for their departments. The change has been slow and as of today, many legal problems still haunt the department heads, which causes many police departments not to require their officers to participate in a physical fitness program. The only ones

that are required to be in physical shape are the new recruits. It appears as officers build time on the departments, they take less care of their bodies. Programs are suggested to police officers to improve their health, but they are not required by a written policy to maintain their health. Many officers will agree that a physical fitness program is needed for police officers to remain in shape, but, unless they are paid to do it or compensated in some way for the exercising, then why should they have to do it? Since our licensing agency requires police officers to study the law, so should police departments initiate a policy that requires their personnel to stay fit.

With the twenty-first century close at hand, police departments can no longer allow police officers to fall victim to heart disease, and illnesses. Police departments need to begin to take a hard look in requiring their officers to stay physically fit. The intended audience for this research project will generally be police administrators, police policy developers, and police training coordinators. With the rising medical costs, sick-leave pay, and loss of manpower, it is time for a safe and cost effective physical fitness program to be developed and to be implemented in each and every police department, around the country. Legal papers, books, magazine articles, and term papers, have been written in regards to the physical well-being of police officers. These materials will be used in developing a policy that will define physical conditioning of police officers and require them to maintain a higher level of proficiency throughout their careers. The final purpose and intended outcome of this research paper will be to show justification for a mandatory physical fitness program and the legal backbone to maintain and implement: such a program in smaller police agencies.

Historical, Legal or Theoretical Context

Police officers perform a vast variety of tasks and face situations of every type imaginable, each and every day. They never know what to expect in any situation and yet they receive not enough training to be prepared for that situation. In small departments, training may even be nonexistent. Physical fitness is one type of training, or one subject within training, that is generally overlooked or is emphasized for a brief period of training and then forgotten completely (House

16). Keep in mind the image of a police officer, in the eyes of the public, is that of a neat, well proportioned officer who is capable of meeting and fulfilling Superman's role (House 16). Proper physical fitness gives that appearance and increases the image of the police force in the public's eyes (House 16).

One of the greatest benefits that a police department could have is the full support of the community and physical fitness helps give that appearance because it gives officers a professional look that is noticed throughout the community. Many research programs have proven that when officers are fit, they appear more knowledgeable and more friendly in the public. Do police really need physical training? Isn't it the intelligence of the officer that results in the arrest of the criminal or suspect? Both are answerable yes, and each are of importance. A 1971 survey revealed 56 percent of all arrests involved physical force and 9 percent resulted in gross force being used (House 17). The threat to the police officer is present and the need for physical conditioning, on a continual basis, is also present. In 1991 concern over the physical fitness of police officers at the Jacksonville State University Police Department led to an inquiry into the feasibility of developing some form of a physical fitness and health-related program. It appeared that in 1990, four of the officers were injured while effecting arrests. In past years, several other officers were injured while also effecting arrests. It was apparent in these cases that while these officers had adequate law enforcement training, their physical fitness condition was less than Optimum (Nichols 17).

It is clear that the adverse effects of the lack of fitness are overwhelming, while the positive benefits are overlooked. From the police agency's viewpoint, physically fit officers use less sick time, increase public respect for the agency, and demonstrate improved attitude toward others. Being physically fit diminishes stress, promotes self-esteem, improves firearms accuracy, increases an officer's confidence in confrontations, and generally improves his/her quality of life (Nichols 38).

Studies by the Dallas Police Department Psychological Services Unit indicate that amount of job-related stress and incidence of heart disease among officers are possibly related. In another study, physical fitness tests administered by the Dallas Police Department revealed that the

average Dallas police officer scored lower in cardiovascular efficiency than the accepted average for the general American population (Byrd 30). It makes sense to say then that police officers, who are less physically fit and who daily experience far more stress and strain than the average citizen, are more likely candidates for heart problems than the average citizen. Thus the need for a regular physical fitness program for police officers seems called for. Physical fitness means dynamic health and body efficiency. For officers, fitness is having the energy to carry out daily law enforcement job requirements effectively with reserve energy to meet emergencies (Collingwood 71).

Police officers in poor physical condition become an extreme liability for the police agency they represent. An out-of-conditioned police officer may not be able to function effectively throughout his law enforcement career. S/he may not be able to run after the suspect that just robbed a bank, or perform emergency rescue on a drowning victim, or remove the driver from a burning vehicle that was struck during a traffic accident, or even arrest a violent suspect after a physical confrontation. Each of these situations could result in the loss of innocent civilian lives and even worst, the loss of a fellow police officer. The risk is high for police officers and the cost for their medical insurance is also high. Police officers that are out of condition use more sick leave and suffer more on-the-job injuries than a conditioned officer will use. This relates to higher insurance rates for the police department and countless amounts of overtime paid to officers that have to work for the injured officer. Robert Rogers, who supervises the FBI's mandatory fitness program, was quoted in Newsweek, Dec. 1991 as saying: "A belly gets in the way of the job. I don't want a fat cop coming to my house when there's an intruder, then you have a double problem." It is important to note more police die from being "over fat" than from bullets (Hoffman 25).

Review of Literature or Practice

Police officers in poor health and physical condition become a legal liability for their respective departments. Administrators are feeling the economic crunch from vicarious liability

claims filed against them by officers that were not in good physical condition. An interesting issue was raised when the U.S. Court of Appeals recently upheld a \$400,000.00 judgment against the District of Columbia Police Department in a case that involved the use of deadly force. It appeared a District of Columbia police officer was attempting to arrest the plaintiff; who at the time of the arrest, resisted the officer, and during the struggle, the police officer was unable to subdue the plaintiff and so he went to the use of deadly force to stop the plaintiff. The plaintiff alleged in his suit that had the District of Columbia police department required a higher level of physical fitness of the officer, he would of been able to affect the arrest without the use of deadly force. The ruling was as stated: Given Officer Hays' physical condition, it is not hard to fathom that his most effective method for subduing the objects of his pursuits would be the use of a firearm as opposed to the application of physical force. Officer Hays was not in adequate physical shape. This condition posed a foreseeable risk of harm to others (parker 291). The right of a police agency to require it's police officers to be medically and physically fit and the rights of a police officer's personal privacy relating to his medical and physical condition will constantly be discussed and argued about in our court system. The jury in this case noted that the officer had received no physical fitness training in over four years.

In a case that was settled in the Federal District court, United States v. Wichita Falls, the court ruled that an applicant's successful completion of the Wichita Falls police department's physical assessment and physical ability test was.....necessary to be an effective police officer in Wichita Falls, Texas (Schofield 28). The physical assessment test was used to screen applicants for entry into the police department. Once applicants complete the training in the police academy, they are required to pass a more strenuous physical agility test to become a Wichita Falls police officer. The courts held the physical assessment test operated as a screening mechanism for entry into the police academy by analyzing the general fitness of an individual instead of an applicant's ability to perform certain tasks (Schofield 29). The physical agility test was given to the applicants after they had passed the physical assessment test and undergone some training in the police

academy. The physical agility test attempted to measure specific strengths and motor abilities directly related to the accomplishment of police functions (Schofield 29)

The general conclusions reached is that law enforcement administrators have considerable managerial prerogatives under State and Federal law to implement hiring standards and procedures to ensure officers are competent and fit for duty (Schofield 27). The recent passage of the Americans with Disabilities Act and the Civil Rights Act of 1991 makes it imperative that law enforcement agencies carefully identify the essential functions of police work and develop physical fitness standards and tests based on those functions. Under the Americans with Disabilities Act, employers may not refuse to hire or discharge a qualified individual with a disability because of that disability, unless that person, with or without a reasonable accommodation, is unable to perform the essential functions of the job (Schofield 27). The test used in the court's decision for Wichita Falls police department measured fitness in the following categories: (1) Cardiovascular function, (2) body composition, (3) flexibility, and (4) dynamic and absolute strength. In order to pass the test, one must be able to score "Fair" for a person of his or her own sex who is 40 to 49 years of age (Schofield 29). The court stipulated the test did not discriminate against women, since women are judged against women, and because the test identifies physical characteristics necessary to perform as a police officer and it adopted a fair standard to become an effective police officer. Testing everyone according to the standards of a 40 to 49 year old was defined as an absolute minimum physical condition for an effective police officer.

Administrators must also keep in mind the costs of implementing a physical fitness program within their respective departments. In *Alvarez v. Dade County*, No. 94-636, 1995, a federal jury ruled that the county violated the Fair Labor Standards Act when it refused to pay off-duty members of the Special Response Team for time spent exercising in order to meet job-related physical fitness standards (Cordelli 3). The jury found that the off-duty training was required or controlled by the county, and performed primarily for the benefit of the county and that it was an integral and indispensable part of their operations. The officers were able to collect

back pay for the violation which sets the ground work for any physical fitness program in that the employees must be compensated for exercising to meet department standards.

Another area of concern has always been the weight standard. Police departments around the country have tried to develop a weight standard for their police officers to meet. When using a weight standard as a basis for a physical fitness test, the courts have taken a long look at these policies. One case, Cook v. State of Rhode Island, the U.S. Court of Appeals for the First Circuit, upheld a claim by a nurse that she was illegally rejected for employment as an institutional assistant because of her weight. The plaintiff had worked successfully in the same mental institution as an institutional assistant on two prior occasions, but when she reapplied for the third time, she was rejected because of her weight. The court concluded that the plaintiff was protected under the Rehabilitation Act of 1973, because she was obese due to a medical condition and not due to a voluntary status. Although weight standards have been upheld by courts in the context of firefighters and paramedic positions, law enforcement managers should proceed carefully in this area in light of the *Cook* case. If one wishes to impose mandatory weight standards within his department, carefully and individually assess each officer's condition in light of medical information concerning the underlying basis for failure to meet the standards (McCormack 30). If an officer does not have a medical problem that causes the obesity, that is, the condition is voluntary, disability statutes generally do not provide any protection against enforcement of weight standards. Managers who wish to enforce weight standards on their officers face greater challenges. Courts have recognized that obesity can be caused by medical conditions that may entitle an officer protection under such statutes as the Rehabilitation Act of 1973 and the Americans with Disabilities Act (McCormick 31).

The adoption of mandatory physical fitness programs into police departments of today are still controversial as they were in years past. Countless court cases have been presented to uphold or deny the use of physical fitness programs. The strongest being that under Title VII of the Civil Rights act of 1964, employment practices which appear to be non-biased may nevertheless be unlawful, if they operate to exclude or discriminate against members of certain identifiable groups.

As a general rule, employers who have been unable to present convincing, correct, and professionally acceptable data to support their assertions that physical characteristics and ability standards are justified by necessity have been unsuccessful in defending those standards. These programs will fall by the waste side if careful considerations are not given in the areas of special needs when preparing a physical fitness program.

Discussion of Relevant Issues

A physical fitness program can be implemented by any law enforcement agency. While some adjustments, creativity, and flexibility may be necessary, virtually any size agency can establish a mandatory physical fitness program. Any reluctance based on legal concerns should be allayed. Law enforcement administrators have considerable latitude under the Constitution to enforce reasonable health and fitness standards that are determined to be job related (Nichols 40). The development of physical fitness programs can be placed into five major components.

One component is known as the *Research* stage. Agencies must demonstrate some research and evaluation process to document the need for and the importance of the physical fitness program and standards. During this stage, the agency should define the health status and disability and fitness status of agency personnel. This stage is also for the rationale of developing the program and justifying the standards that are going to be followed.

The second stage is known as the *Program Planning* area. Agencies should devise a formal planning process for gathering input and defining the needs of the program. Keeping all members of the department fully informed of the program will assist in making the fitness objectives a success.

The third stage of development is known as the *Program Definition*. Based upon the research and communication phases, a clear definition of the program should be developed to clearly convey to all members of the department the purpose and rationale of the program. This stage is to provide the logic and justification for the program so that all members of the agency fully understand the implications as well as the details of the program.

The most important stage in the development of a physical fitness program is known as the *Program Design* stage. This is where the characteristics of your department are investigated and the program is developed for each and every member. The members of the department are given medical screening and physical assessments tests to 'fine tune the program. Body composition assessments are made and goals are set for each member to accomplish during the program. Define how the members are to exercise and provide feedback to monitor their progress. From this feedback, provide each member with some type of reinforcement to maintain high level of involvement.

The last stage of the program is known as the *Standards of Definition*. This is where the development of physical fitness standards should be based on the intent of accomplishing the physiological readiness of the officers and to provide a picture for the officer of his current physical fitness status so that an improvement program can be defined. When all of these stages are in place, the physical fitness program will now become established within the police agency and the officers are better prepared for the implementation process.

Program implementation involves addressing four major areas: program operations, program leadership, evolutionary installation and program evaluation (Collingwood 24). These steps are used in making a physical fitness program a success. The bottom line of a physical fitness program is getting results. The implementation stage is vital in getting officers to participate fully and develop a status of maintaining physical fitness throughout their careers. The main key to the entire program rests with the physical fitness program instructor. The instructor must exhibit true leadership abilities. Leadership can be found in two ways, one being a committed administration that will provide the resources, the framework and the policy for a successful program. For that to occur, it is very important that the administrators be fully briefed and involved in the program (Collingwood 24). The second way is having trained fitness coordinators or instructors within an agency who can deliver the basic physical fitness program components. Good role modeling goes a long way in setting the proper physical fitness program.

Conclusions / Recommendations

The purpose of this research paper was to see if the recent court decisions upheld the mandatory rule involving police department physical fitness programs and provided justification in making the officers stay fit and trim. Mandatory standards must be reasonable and rational if they are to be enforceable. The Supreme Court has ruled that the Constitution permits enforcement of standards that have a rational basis, consist of documented logic on health needs and are fairly implemented (Ness 76). Under Title VII, the legality of a specific standard depends upon its impact. Job related proof is required where mandatory standards have a disparate impact on women. Standards with no disparate impact under Title VII are constitutional if related standards are used rationally.

Another important issue raised during the research of this paper was the extent of the police department liability issue. If police officers are not supplied with the proper physical fitness training, then can cities, counties, and states be held responsible? According to the new court decisions, penalties are being levied against police organizations for not having the officers in some physical condition. Police administrators must begin to weight the costs of law suits as compared to the costs of physical fitness training. No longer can the police officer be only fit and trim when S/he starts with the police department because now S/he must maintain that level of fitness throughout the entire career as a police officer.

Remember the famous Ford Company commercials about "Quality is Job 1." This same terminology should be implemented in each and every police department concerning physical fitness. Physical fitness programs give something positive to employees and improve morale. These healthier, more fit workers will then be more productive (Brown 61). Physical fitness saves lives and makes people's lives better and happier. The benefits of a physical fitness program significantly improve and better departments in so many ways. A properly implemented program can teach officers techniques to relieve stress, provide diet and nutrition guidance and lead to better mental and physical health. Studies have revealed that many line officers are in such bad physical condition that they are a statistic waiting to happen (Brown 71).

Today, countless programs have been created, but the best program is the program that is styled for your police agency. Police administrators should take a hard look to the overwhelmingly benefits of establishing a comprehensive physical fitness program. This will require law enforcement managers to abandon the reactionary approach and adopt an innovative leadership style. They should develop model fitness programs that will enhance the law enforcement profession. Physical fitness should become an integral component of every law enforcement agency's training program. Every police employee, including the chief or director, should be expected to actively participate and successfully meet measurable standards. It is good for the officer, the agency, and the community.

In conclusion, court decisions have indicated that law enforcement administrators have considerable latitude to develop and enforce reasonable health and fitness standards for law enforcement employment. Health and fitness standards are constitutionally valid if fairly implemented and rationally related to legitimate law enforcement interests. In spite of the obstacles, many police agencies have programs started and the officers are enjoying the benefits. Regular exercise and wellness programs require a strong commitment to get involved and positive reinforcement to stay involved long term. Training part-time in hopes of passing the annual fitness test, or short-term diets to meet wellness standards is not the answer. The commitment should be to consistent training and lifestyle changes. The payoff to the commitment is a safer, healthier, and more satisfying career, for the true law enforcement professional.

No one has all the answers. There is not a comprehensive formula to eliminate all the risk from police work. Street officers place their lives on the line daily. It's time for both street officers and supervisors to demand their agency implement fitness training as part of officer survival programs.

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